

Guidelines on Signature Gathering

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Your Rights and Responsibilities – Submitting Petitions in Montana

We hope you find this guide a useful tool to submit a petition in Montana!

This guide is meant to assist users with this complicated process. If you have questions, please consult legal counsel.

Revised 5/13/2021



Important Notice

Up-to-date information on the ballot issue process is on the Secretary of State's (SOS) website at <u>sosmt.gov/Elections</u>.

It is the responsibility of the sponsor to ensure all applicable laws are followed, including those governing signature gathering activities and deadlines. In addition, each ballot issue sponsor should review MCA Title 13, Chapter 27 and Article IV and Article XIV of the Montana Constitution.



Montana petition facts and history

In **1906** Montana voters approved the creation of **initiative** and **referendum** – a system of making laws by the people.

This presentation does not cover candidate petitions, party petitions, recall petitions, or local petitions.

There are different types of statewide petitions relating to statutory initiatives, constitutional initiatives, and initiative referendums.

As a signature gatherer, paid or voluntary, you are on the front lines of the system and are helping to amend or create a state law.

All signature gatherers should know and follow all guidelines and applicable laws.



Initiative definition:

THE CONSTITUTION OF THE STATE OF MONTANA

ARTICLE III. GENERAL GOVERNMENT

Part III. GENERAL GOVERNMENT

Initiative

Section 4. Initiative. (1) The people may enact laws by initiative on all matters except appropriations of money and local or special laws.

- (2) Initiative petitions must contain the full text of the proposed measure, shall be signed by at least five percent of the qualified electors in each of at least one-half of the counties and the total number of signers must be at least five percent of the total qualified electors of the state. Petitions shall be filed with the secretary of state at least three months prior to the election at which the measure will be voted upon.
- (3) The sufficiency of the initiative petition shall not be questioned after the election is held.

History: Amd. Const. Amend. No. 38, approved Nov. 5, 2002.

An **initiative** is when a citizen or group starts a petition for an idea that they would like to change or become a law or an amendment to the state constitution.



Referendum definition:

THE CONSTITUTION OF THE STATE OF MONTANA ARTICLE III. GENERAL GOVERNMENT Part III. GENERAL GOVERNMENT

Referendum

- **Section 5.** Referendum. (1) The people may approve or reject by referendum any act of the legislature except an appropriation of money. A referendum shall be held either upon order by the legislature or upon petition signed by at least five percent of the qualified electors in each of at least one-third of the legislative representative districts. The total number of signers must be at least five percent of the qualified electors of the state. A referendum petition shall be filed with the secretary of state no later than six months after adjournment of the legislature which passed the act.
- (2) An act referred to the people is in effect until suspended by petitions signed by at least 15 percent of the qualified electors in a majority of the legislative representative districts. If so suspended the act shall become operative only after it is approved at an election, the result of which has been determined and declared as provided by law.

A **referendum** is when a person or group seeks to overturn a law that has just been passed by the Montana Legislature.



- ☐ To place an initiative or referendum on the ballot, petitioners must obtain a specified number of valid signatures of Montana registered voters.
- ☐ The total number of valid signatures required is determined by the state constitution.
- ☐ The number of valid signatures required is based upon a percentage of the total votes cast for all candidates for Governor at the most recent election.



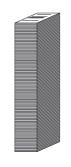
- ☐ For a constitutional <u>initiative</u>, the statewide percentage is 10%, and 10% of the voters in each of at least 40 legislative representative districts.
- ☐ The percentage for a **statutory initiative** or <u>referendum</u> to qualify for the ballot is 5% statewide, and 5% of the qualified voters in each of 34 legislative representative districts.

The percentage required for a <u>referendum</u> to suspend an act referred to the people is 15% of the voters in each of at least 51 legislative representative districts.



Example:

□ For the 2018 General Election ballot, petitioners were required to obtain 50,936 valid signatures to qualify an initiative that amends the state constitution, as well as 10% of the voters in each of 40 legislative districts.



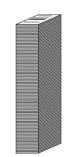
Constitutional Initiative: 50,936 valid signatures

Revised 5/13/2021

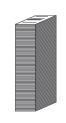


Example:

☐ For the 2018 General Election ballot, petitioners were required to obtain 25,468 valid signatures to qualify an initiative that creates or amends state law or a referendum that refers a bill to voters, and 5% of the voters in each of at least 34 legislative districts.



Constitutional Initiative: 50,936 valid signatures



Statutory Referendum: 25,468 valid signatures



Example:

- ☐ For the 2018 General Election ballot, petitioners with intent to suspend a law passed by the Legislature were required to obtain signatures equal to 15% of the voters in each of 51 of 100 legislative representative districts.
- ☐ The total required varies by the number of voters in the legislative districts and depending on the districts chosen.



Financial reporting requirements

- \square People who employ paid signature gatherers must follow MCA <u>13-27-112</u> and <u>13-27-113</u>.
- ☐ Contact the <u>Commissioner of Political Practices</u> for questions on compliance: 406-444-2942, http://politicalpractices.mt.gov/.



Signature gatherers of statewide ballot issues

- A signature gatherer for a statewide ballot issue must be a **resident** of Montana, as defined in MCA 1-1-215.
- Signature gatherers may be volunteers, or they may be paid.
 - ➤ If paid, a signature gatherer for a statewide ballot issue may not be paid anything of value based upon the number of signatures gathered
- There is no statutory age restriction for signature gathering.



Signature gatherers of statewide ballot issues

An individual gathering signatures for a **candidate**, **political party**, **or recall petition** is not:

- 1. required to be a resident of Montana, and
- 2. prohibited from being paid anything of value based on the number of signatures gathered



- ☐ While gathering signatures, ensure that the full text of the ballot issue is attached to the petition if the full text is not already contained within each signature sheet.
 - > Allow anyone to read the full text of the ballot issue
- ☐ Be in the presence of each signer when gathering signatures.
 - Do not leave the petition unattended



- ☐ Provide an affidavit of signature gatherer with each petition sheet, or section of up to 25 sheets fastened together.
 - After you gather the last signature that you attach to the affidavit, write in the date on which you gathered the first signature that is attached to the affidavit
 - > Provide your address on the affidavit



- ☐ Sign the affidavit in front of a notary **after** you gather the last signature on the petition sheet(s) that are attached to the petition.
- ☐ Do not attach additional signatures after signing the affidavit in front of a notary.
- ☐ After you sign the affidavit, use a new affidavit for any additional signatures gathered.



IMPORTANT NOTE

A signature gatherer who signs an affidavit **before** the last signer on the attached petitions has signed cannot legally claim that all the signers knew what they were signing, as is required by law.



- ☐ Give accurate information to anyone who signs, attempts to sign, or requests information.
- ☐ Check to ensure that signers provide the correct date; if they do not, have the signer change the date initial next to the change.
- ☐ Follow instructions provided by the ballot issue sponsor.
- ☐ Submit petition sheets to sponsor and/or to county election offices by applicable deadlines.



IMPORTANT NOTE

- ☐ It is imperative you follow state law when you circulate a petition, or the signatures that you collect could be rejected.
- ☐ The laws are written to protect Montana's petition system from fraudulent signature gathering.



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It is essential to follow state law when circulating a petition, or the signatures collected could be rejected.

The laws are written to protect Montana's petition system from fraudulent signature gathering.

Date Signed

What should signature gatherers look for on the Petition Sheet?

| ach person is required to sign the person oter registration card or the signature wi | | person's address or telephone numb | er in substantially the same manne | er as on the | person's |
|---|----------------------|---------------------------------------|------------------------------------|----------------|-------------|
| , | | | | | |
| place of a residence address, the signer | may provide the sign | ner's post-office address or the sign | s s home telephone number. | / | |
| | | | | | |
| | | | | | ty Election |
| | | | | | Jse Only |
| | | Residence Address or Post- | | Legis. Rep. | |
| | Date | Office Address or Home | Printed Last Name and | District | Reserve |
| Signature | Signed | Telephone Number | First and Middle Initials | Number | |
| 1. | | | | | |
| 2. | | | | | |
| 3. | | | | | |
| 4. | | | | | |
| 5. | | | | | |
| | | | | | |
| | (number | ed lines continued to fill up page) | | | |
| DUNTY: | | | | | |

The printed last name and initials should be legible

Printed Last Name and First and Middle Initials

Residence Address or Post-Office Address or Home Telephone Number

Signers can write in a phone number; however, an address makes it easier to identify the signer



What should signature gatherers look for on the Affidavit? The date you put in below should match the first date signed on the petition that is attached to the affidavit

Date on which the first signature attached was gathered

| | Affidavit o | offidavit of Petition Signature Gatherer | | | | | |
|--|---|---|---|--|--|--|--|
| | | be attached to each sheet or section to this affidavit in sections of not mor | submitted to the election administrator. Separate sheets of a petition | | | | |
| AFFIDAVIT FILED WITH 8 | | / | then ES siecu. | | | | |
| | | | j | | | | |
| | | / | | | | | |
| (printed name of p | person who is the | e signature gatherer) | | | | | |
| on the petition are electors who are re | genuine, are the segistered at the ad- | signatures of the persons whose n | avitis attached on the stated dates, that I believe the signatures ames they purport to be, and are the signatures of Montana per following the person's signature, and that the signers knew | | | | |
| | Date on which the first signature <u>attached</u> was gathered | | | | | | |
| | | | | | | | |
| | Signature of petition signature gatherer (Do not sign above before gathering the signatures | | | | | | |
| | en the petition(s) that you attach to this affidavit.) | | | | | | |
| | | | | | | | |
| | Address of petition signature gatherer | | | | | | |
| | | | | | | | |
| | | | | | | | |
| City, state and zip code | | | | | | | |
| NOTANY OR AUTHORI | TED OFFICES DO NO | T FILL OUT THE SECTION LINES. ACTED TH | E SIGNATURES GATHERED HAVE BEEN ATTACHED TO THIS AFFIDAVIT | | | | |
| State of Montana | ZED OFFICER - DO NO | I FILE OUT THIS SECTION ON THE AFTER TH | E SIGNATURES GATHERED HAVE BEEN ATTACHED TO THIS AFFIDAVIT | | | | |
| County of | | | | | | | |
| Signed and sworn to | before me this | day of, 20 | Printed Name of Signature Gatherer | | | | |
| Where to file Peti Affidavit: | ition and | | | | | | |
| County Election Administrator's Of A list of county ele offices may be found | ection and at: | | Signature of Notary or Public Official [Montana notaries must complete the following if not part of stamp at left] | | | | |
| sos.mt.gov/elections | | | Printed Name of Notary Public | | | | |
| | | | Notary Public for the State of Montana | | | | |
| | | | Residing at: | | | | |
| | | [SEAL/STAMP] | My commission expires; | | | | |
| i | | | Updated April 15, 2011 | | | | |

IMPORTANT NOTE

Do <u>not</u> sign the affidavit until AFTER you have gathered the last signature that you attach to the affidavit

Check to see if the notary has filled in all required items or used a stamp with all the required items



Rights of signature gatherers

MCA 13-27-210. Physical prevention of obtaining signatures or physical intimidation of signature gatherers prohibited.

- A person may not knowingly or purposefully physically prevent an individual from obtaining signatures or attempting to obtain signatures on a petition for a ballot issue or physically intimidate another individual when that individual is obtaining or attempting to obtain signatures on a petition for a ballot issue.
- ☐ A person who violates this section is guilty of a misdemeanor and upon conviction shall be punished by a fine of not more than \$500, by imprisonment for not more than 90 days, or by both a fine and imprisonment.

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Rights of signature gatherers

- ☐ If an employer promises to pay you by the hour, the employer must pay you for the number of hours you worked regardless of how many signatures you collect on petitions.
- ☐ You must be paid at least the minimum wage and must be paid overtime for any hours over 40 worked in a workweek.
- ☐ If you believe that you have not been paid correctly, contact the Department of Labor and Industry.
- ☐ Notify the Secretary of State or your county attorney if you are asked to accept payment based on the number of signatures you obtain.





Thank you for participating in the Montana petition process.

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